

EXHIBIT “B”

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JANET FASHAKIN,

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Plaintiff,

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vs. No. 05-3080

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NEXTEL COMMUNICATIONS, TIMOTHY M.
DONAHUE, RISK MANAGEMENT ALTERNATIVES,
INC., ALLIED INTERSTATE, INC., and
TRANS UNION, L.L.C.,

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Defendants.

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225 Cadman Plaza East
Brooklyn, New York

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July 12, 2007
12:06 p.m.

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Deposition of Janet Fashakin, held

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at the United States District Court,

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Eastern District of New York, 225 Cadman

17

Plaza East, Brooklyn, New York, pursuant

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to order, before Kimberly Manning, a

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Notary Public of the State of New York.

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PRIORITY-ONE COURT REPORTING SERVICES, INC.

22

899 Manor Road

23

Staten Island, New York 10314

24

(718) 983-1234

25

1 F A S H A K I N

2 A. Those were two occasions, the
3 record of which I could lay my hands on at
4 that time.

5 Q. Are there any other records you
6 have laid your hands on, since that time,
7 that show that a Trans Union credit report
8 caused you to lose a credit opportunity of
9 any kind?

10 A. There are occasions that I have
11 gone into a supermarket or something,
12 JC Penney or Macy's, in which they ask you to
13 their credit card, you stand there, and they
14 look at your credit in order to be able to
15 give you credit, and I have been denied.

16 Q. When was the last time that
17 something like -- You mentioned JC Penney,
18 when was that?

19 A. Right after. Back now, I can't
20 remember. But around that time, which was
21 what made me to question what is going on. I
22 do have very good credit.

23 Q. Before you went and wrote a letter
24 to Trans Union. So, it would have been
25 sometime before December -- in or before

1 F A S H A K I N

2 I did call the credit card company. I think
3 those ones. It wasn't Trans Union. Sorry.

4 Q. That wasn't Trans Union. The only
5 contact that you have made to Trans Union,
6 specifically, is this Exhibit 11 to the
7 interrogatories?

8 A. That was not the only contact.
9 That was the only letter I sent.

10 Q. The only letter you sent. What
11 other contact did you have with Trans Union?

12 A. Trans Union did send me a letter,
13 which I considered another contact with them.

14 Q. You contacted them, not them
15 contacting you. You did reference a response
16 from Trans Union. Right now what I am trying
17 to understand is the number of times you
18 contacted Trans Union?

19 A. Right, that was the only time I
20 contacted them. But just saying yes or no
21 will not explain what it is and it will be
22 deceptive.

23 Q. Did you call Trans Union?

24 A. No, I did not call Trans Union, but
25 I received a letter from Trans Union.

1 F A S H A K I N

2 Q. Okay. Okay. That's a response. Do
3 you think that letter that you received from
4 Trans Union was in response to the December
5 20, 2004 --

6 A. Yes, it was yes.

7 Q. Just for the court reporter's sake,
8 you have to let me finish my question.

9 A. I am not saying -- It's not a yes
10 and no question.

11 Q. I understand. The time of your
12 communication to Trans Union, as opposed to
13 communications from Trans Union, was one
14 occasion of December 20, 2004, certified
15 letter?

16 A. Yes.

17 Q. Okay. Now, you also state in these
18 interrogatory responses that you received a
19 response to that dispute and you attached
20 Exhibit 8, I believe it was?

21 A. A or 8.

22 Q. This first page of Exhibit 8 looks
23 like -- it says your credit history
24 information as reported by Equifax?

25 A. Okay.

1 F A S H A K I N

2 time. I saw Risk Management or something. I
3 didn't know who they were. I saw Nextel.

4 Q. Other than this Nextel Risk
5 Management debt, did your Trans Union credit
6 file, at any time that you are aware of,
7 contain any other items of information that
8 you claim were incorrect, besides this one?

9 A. No, that was the only one.

10 Q. Okay. Allied Interstate is a
11 defendant in this case, but to your knowledge
12 they never gave Trans Union information that
13 got onto your report, right?

14 A. I don't know. I have no way of
15 knowing.

16 Q. The answer is, to your knowledge --

17 A. I am just reacting to what I have
18 that was sent to me. I wouldn't know what
19 any other person told Trans Union or did not
20 tell Trans Union.

21 Q. Okay. Why was this item of
22 information, this Risk Management Nextel
23 debt, inaccurate?

24 A. Because it was not old.

25 Q. Could you explain? Did you have a

1 F A S H A K I N

2 phone with Nextel?

3 A. Yes, I did.

4 Q. What happened with that phone
5 account?

6 A. I asked them close it because they
7 were not performing their own part of the
8 contract. You know, I was paying. I wasn't
9 receiving services. And many times I would
10 call them. They would say it was range, that
11 was why I couldn't receive services. They
12 would say it was one wire or something in the
13 area that was defective. Not wire, but in
14 the area. Sometimes it would be, oh, it's
15 not just you, it's everybody in that area.
16 Okay. And I said, if that's the case, are
17 you going to be giving me some kind of credit
18 towards services not provided. No answer to
19 that. So, after some time, because it was a
20 continuous complaint that I making to them, I
21 thought this cannot continue. I called them.
22 I said, I am sorry. I don't think I want to
23 go with you anymore. I am only paying. I am
24 not getting services.

25 Q. Okay.

1 F A S H A K I N

2 A. That was the end of the story.

3 Q. How did the contract get
4 terminated? Did you enter into an agreement
5 to terminate the contract? How did the
6 relationship with Nextel end?

7 A. By calling them and telling them I
8 don't want to you provide service for me
9 anymore. That's the way I do it with any
10 phone company.

11 Q. Did they give you any papers saying
12 that your contract was terminated?

13 A. They didn't gave me a paper. I
14 didn't request any paper. I called them and
15 made sure the people I was talking with had
16 the authority at Nextel to talk to me.

17 Q. What did those people tell you?

18 A. Initially they told me that the
19 services will improve initially, which was
20 like three months prior. It did not improve.
21 I called them within that three-month period.
22 I called like five months. When I eventually
23 called back, then I was furious and told them
24 that was it. I don't want to keep paying for
25 something that I am not receiving services

1 F A S H A K I N

2 for. I believe it is unfair on my own part.

3 If I was not paying them, they would improve
4 my services to them. If I am paying, they
5 should services to me, you know.

6 Q. But you didn't have any paperwork
7 to document the end of that relationship with
8 Nextel, right?

9 A. The end of relationship with Nextel
10 is no longer an issue. They discovered they
11 were wrong and send me back the money later
12 on, once the lawsuit started.

13 Q. You sued Nextel in this case,
14 right?

15 A. I believe the title of this case is
16 Fashakin versus Nextel.

17 Q. Yes. And Nextel settled with you?

18 A. Even before this settled, along the
19 line, I believe, their did there own
20 investigation and they discovered they were
21 wrong.

22 Q. When did that investigation occur?

23 A. That I cannot get into. Nextel has
24 asked me to keep communications between me
25 and them confidential. I believe, we did

1 F A S H A K I N

2 those were the reports that I have in
3 writing.

4 Q. Okay. Now, that doesn't answer the
5 question. The question was to identify each
6 report that contained inaccurate information.
7 That would include occasions that you tried
8 to get credit cards or student loans,
9 occasion that you applied for loans --

10 A. I didn't apply for student loans.
11 It was loans, I said.

12 Q. Excuse me. Credit card to pay for
13 school, tuition for your children, an attempt
14 to buy an office building. You don't
15 identify when any of those reports were given
16 to any of those people.

17 A. Because I didn't have the
18 documents, as of that time.

19 Q. From December 30, 2006, through
20 today, you have gotten documents like that?

21 A. If you want me to get it, I will go
22 back and look for it. I will contact those
23 people.

24 Q. I will ask that question. These
25 denials that you described, that you

1 F A S H A K I N

2 attempted to purchase the building, that was
3 before December 30, 2006. You mentioned it
4 in the complaint.

5 A. Yes, I did.

6 Q. You didn't produce any documents
7 about that occasion?

8 A. Because I didn't have any
9 documents, as to that, on that occasion.

10 Q. What happened since then? Have you
11 obtained documents?

12 A. I wasn't looking for it. If you
13 need, you can ask me and I will give you what
14 I had at that time. I answered what I
15 produced. What happened is, what was in the
16 complaint -- What I had when you asked me, is
17 what I gave you.

18 Q. These are two different things you
19 say in the complaint, you had denials for
20 credit cards to pay for tuitions, and that
21 you tried to pay for your children's college,
22 and you that you tried to get a mortgage to buy
23 an office building?

24 A. Yes.

25 Q. When were you asked -- And there

1 F A S H A K I N

2 won't say another word. You made your
3 point.

4 A. What you ask me to look at?

5 Q. Exhibit 8, does that identify any
6 occasion where you were denied a loan?

7 A. It may. It may not.

8 Q. You answered the question with that
9 exhibit?

10 A. Yes.

11 Q. Why?

12 A. I said those people I have credit
13 with look at those. Like I said, again, I
14 don't see any relevance. Even if it's one
15 company that rejected me, it's one company
16 too many.

17 Q. Between the December 20th denial by
18 Discover that we looked at and the date of
19 the complaint, June 27, 2005, roughly six
20 months, did a Trans Union credit report go to
21 anyone that caused you to be denied credit?

22 A. Go to anyone?

23 Q. Was it published to anyone who got
24 it, and looked it, and said we are not giving
25 you credit, in the time period between the

1 F A S H A K I N

2 Discover letter December, December 20, 2004,
3 and June 27, 2005, the date the complaint was
4 filed. The question was, did anyone get a
5 Trans Union credit report, to your knowledge,
6 and tell you that you weren't getting credit
7 based on that?

8 A. Unless they put it in writing like
9 the one I produced to you, I wouldn't know
10 whether it was Trans Union or not. You have
11 three major agency.

12 Q. You don't know is the answer?

13 A. I don't know.

14 Q. When did you try to get this office
15 building?

16 A. I told you that was a period of
17 time in which everything I tried to get was
18 being denied.

19 Q. That's a different question. We
20 are almost done here. I am asking specific
21 questions.

22 A. Around the time.

23 Q. Was it before or after December 20,
24 2004?

25 A. Before I brought this action. It

1 F A S H A K I N

2 was before.

3 Q. That's a different question. Was
4 it before or after December 20, 2004?

5 A. I am not specific on dates, unless
6 I am looking at things that could remind me
7 of what it is. I don't have that. You
8 didn't ask me to bring anything that would do
9 that.

10 Q. You were asked about what credit
11 you were denied?

12 A. They were before I brought the
13 action.

14 Q. After the action are you aware of
15 any instance you were denied any credit?

16 A. After the action I wasn't
17 monitoring anymore. There could have been
18 one or two. I am not going to use that
19 against you people because I already know
20 there was something that was wrong. It was
21 like once I brought the action, I just kept
22 going. I didn't care anymore. I stop.
23 Maybe I even stopped applying for things.
24 Just use what it is I had in existence.

25 Q. Okay. In the complaint you say

1 F A S H A K I N

2 of money. You may have been losing a million
3 dollars because your reputation was
4 destroyed.

5 Q. Do you think that happened to you?

6 A. Yes.

7 Q. You believe --

8 A. I believe it did.

9 Q. Why?

10 A. If you are going to work with your
11 friend and go to a place like JC Penney. We
12 have this, it's zero percent. If you do
13 this, you got this back today. If you apply
14 for our credit, and you go ahead, and do
15 that, and the next thing is that you
16 don't qualify. What do you think that would
17 do to you, as an attorney? I am an attorney,
18 like you. I am a person. I am a woman.

19 Q. Yes.

20 A. I have integrity. The person
21 standing next to me, if he has something to
22 do with me, doesn't that say something to him
23 or her. That is not a person you can do
24 business with.

25 Q. Okay. Any other ways in which you

1 F A S H A K I N

2 claim you suffered emotional damage?

3 A. In what?

4 Q. Any other ways, besides the
5 JC Penney event?

6 A. It's not only JC Penney. Part it
7 was, when I said I wanted to buy the office
8 building. Just looking in my credit, the
9 interest rate they were going to give me was
10 outrageous. Why would that be? I just sit
11 in front of a loan officer and ask for your
12 social security number, ask for your name,
13 date of birth. Come back and said because of
14 your credit history, we don't think we can
15 extend credit to you. I mean, you almost
16 feel like dropping dead right there and then.

17 Q. Who told you that?

18 A. The loan officers.

19 Q. What loan officers? How many loan
20 officers told you that?

21 A. How many loan officers? How many
22 do I need to go to?

23 Q. It's a question, ma'am. How many
24 loan officers?

25 A. How many?

1 F A S H A K I N

2 you applied for a credit card to get money
3 for the LLM?

4 A. When was the last time? It was in
5 about -- The last time apply for credit. All
6 the time. Whenever I need money. It was
7 even about the existing one. The one that I
8 had that I was relying on. It suddenly
9 increased, the interest rate.

10 Q. Was that Fleet?

11 A. Fleet actually closed their own.

12 Q. Was it Discover?

13 A. Discover increase theirs. MBNA
14 did. They didn't send me anything. Chase
15 did.

16 Q. Chase did what?

17 A. Increase the interest rates. None
18 of them send me any letter. It was part of
19 the agreement. If something happens, it's
20 going to trigger something. I don't know.

21 Q. You don't have any letters from
22 those companies?

23 A. No, those are the letters I have.
24 Those are the ones I provide.

25 Q. You said in your complaint that you

1 F A S H A K I N

2 the one that went -- This other company got
3 on.

4 Q. Allied?

5 A. Yes, they were persistent.

6 Q. At some point did you pay the debt?

7 A. Yes.

8 Q. Do you recall the date you paid the
9 debt?

10 A. Yes, I recall the date. I think I
11 did write it on top. That was money. It was
12 early in the morning, around 5:00 a.m.

13 Q. I refer to your complaint of
14 January 22.

15 A. Right, it was around 5:00 a.m. that
16 day.

17 Q. How did you go about paying the
18 debt?

19 A. I ask them at one point, after the
20 call was becoming too much. I realize for my
21 own sanity, I have to pay the money. Even if
22 I don't owe it, pay it, so you can able to
23 enjoy the rest of your life. These people
24 won't let go.

25 Q. How did you go about paying?